

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

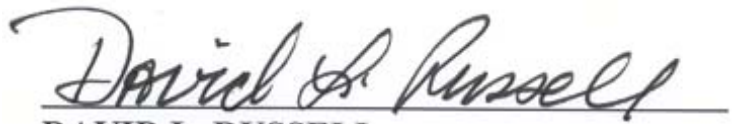
<b>GREGORY RIVERS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-10-913-R</b>
	)	
<b>PETE HOGAN, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

Before the Court are the Report and Recommendation of United States Magistrate Judge Bana Roberts entered June 24, 2011 [Doc. No. 48] and Plaintiff's "Request to Dismiss Without Prejudice." Doc. No. 49. Defendant Hogan objects to Plaintiff's "Request." *See* Doc. No. 50. The Magistrate Judge recommended that the Court grant summary judgment on Plaintiff's unexhausted claims (counts two and three) and on the merits of Plaintiffs' due process claim (count one). She also recommended that the Court decline to exercise supplemental jurisdiction over Plaintiff's state law claims and dismiss those claims without prejudice. Plaintiff now seeks dismissal without prejudice of his entire Complaint based upon the alleged prior incompetent assistance from another inmate. It is clear, however, that Plaintiff does not wish to pursue the due process claim but does wish to pursue the unexhausted claims that were included in his Complaint. Therefore, the Court, in its discretion, **ADOPTS** the Report and Recommendation of the Magistrate Judge with respect to Plaintiff's due process claim and **GRANTS** Defendants' motions for summary judgment as to that claim. The Court **REJECTS** the Report and Recommendation as to the

unexhausted claims, however, and DISMISSES those claims (counts two and three) without prejudice so that Plaintiff can exhaust his administrative remedies with respect to those claims. The Court also ADOPTS the Report and Recommendation concerning Plaintiff's supplemental claims and DISMISSES those claims as well. The pending motions [Doc. Nos. 38 & 47] are DENIED as moot.

IT IS SO ORDERED THIS 12<sup>th</sup> day of July, 2011.

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE